SINGLE BENCH

C.S. 1001

03

IN THE HIGH COURT OF JUDICATURE, AT-BILASPUR(C.G.)

WRIT PETITION NO. 4589 OF 2005

PETITIONER : BHAGWAT PRASAD BHARTI
AGED ABOUT – 40 YEARS,
SON OF SHRI SANTOSH BHARTI
ASSISTANT TEACHER
AT – GOVT. MIDDLE SCHOOL,
BOTALDA, BLOCK - KHARSIYA
DISTRICT – RAIGARH (C. G.)
R/O VILLAGE – TELIKOT,
TEHSIL – KHARSIYA,
DISTRICT –RAIGARH (C.G.)

P.R. No. 4692/05
Presented by Sh. B.K. Chakraborty
Dated 9/9/05

VERSUS

RESPONDENTS : 1. STATE OF CHHATTISGARH
THROUGH – THE SECRETARY,
TRIBAL WELFARE AND SCHEDULE
CASTE DEVELOPMENT DEPT.
MANTRALAYA, D.K.S. BHAWAN,
RAIPUR

2. THE COMMISSIONER,
TRIBAL WELFARE AND SCHEDULE
CASTE DEVELOPMENT DEPT.
PT. R.S.U. CAMPUS, RAIPUR C.G.

3. THE COLLECTOR,
TRIBAL DEVELOPMENT BRANCH
DISTRICT – RAIGARH (C.G.)

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CLERK TO A.G. BILASPUR

WRIT PETITION UNDER ARTICLE – 226 & 227 OF CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, PROHIBITION, DIRECTION OR DIRECTIONS, ORDER OR ORDERS.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....WP 4589/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07/10/2005

Shri R.K. Kesharwani, learned counsel for the petitioner.

Shri Bhaskar Pyasi, Panel Lawyer for the State.

Heard.

The petitioner, who is working as Assistant Teacher in Middle School, Botalda Block Kharsiya District Raigarh has challenged his transfer order dated 30/08/2005 by which he has been transferred from Botalda to Block Tamnar.

Learned counsel for the petitioner submits that the aforesaid order is not in accordance with law as a Teacher cannot be transferred to a particular Block and be kept on the mercy of the Block Education Officer for making his posting.

The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan –V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

> "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of Inida & others Vs. Janardan Debanath & another,*** it was observed as follows:

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala-fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.*"

In the facts and circumstances of this case, I am not inclined to interfere in this order of transfer.

The petition has no merit, the same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge